

Workplace Safety Enforcement Continues to Decline in Trump Administration

Workplace Deaths Rising: Fatality Inspections at 10-Year High

More than 5,000 workers were killed on the job in 2018, and almost three million workers suffered an injury or illness serious enough to warrant medical attention or time away from their job.¹ Yet, under the Trump administration, Occupational Safety and Health Administration (OSHA) enforcement activity—crucial to saving workers' lives—is declining.

New data just released by OSHA reveals that safety enforcement activity continues to decline under the Trump administration, dropping in FY 2017 and falling even further in FY 2018. The number of complicated and high-penalty cases have been dramatically reduced. The agency also revealed that the number of OSHA inspectors under the Trump administration is now at a historic low. This is not just from budget cuts, but from a failure to fill vacancies in a timely manner.

Alarming, the number of OSHA inspections due to workplace fatalities or catastrophes in FY 2018 rose dramatically—a strong sign that workplace fatalities are increasing under this administration. At the same time, as if it were trying to disappear, the agency has all but stopped issuing enforcement-related press releases, abandoning the deterrent effect that this kind of publicity produces.

Background

OSHA is responsible to help assure that employers are providing safe workplaces. Since OSHA was created in 1971, the U.S. workforce has doubled, but the number of workplace deaths and the rate of on-the-job injuries have declined by 65 percent.²

The fact is that workplace fatalities and serious injuries and disease are preventable when employers follow common-sense safety rules. Strong and targeted enforcement by OSHA saves not only lives but valuable resources for employers as well. A substantial body of empirical evidence, including recent studies conducted by the Rand Corporation³ and by the business schools of Harvard University⁴ and the University of California at Berkeley,⁵ confirm that OSHA inspections result in substantially and persistently reduced rates of both injuries and insurance costs to the tune of billions of dollars annually for employers, both large and small.

Workplace Safety Enforcement Declining Under Trump Administration

OSHA's inspection resources are already so limited that it would take the agency more than 150 years to visit every workplace under its jurisdiction just once.⁶ Yet, the Trump administration is scaling back OSHA enforcement activity, putting workers' lives at risk and undercutting businesses that play by the rules and prioritize worker safety. On the surface, OSHA reports a similar number of investigations over the past few years; but digging just a bit beneath the surface, it becomes clear that this is a false narrative and that the agency is prioritizing quantity over quality, in an effort to disguise what is really going on.

Beginning in FY 2016, OSHA revised the way it counts and measures enforcement activity.⁷ Prior to FY 2016, OSHA used the total number of onsite inspections as a way to measure enforcement activity. But OSHA found that this system of counting every inspection equally—whether it took one day or five months—penalized OSHA staff that took on more complex inspections that required a greater amount of time and effort. To encourage OSHA staff to undertake more complex inspections—such as for fatalities, process safety management, chemical exposure, combustible dust, health hazards, heat, and ergonomics—in FY 2016, OSHA adopted a new system of measuring enforcement activity through weighted “enforcement units.”

The new system assigns values—a number of enforcement units—to each specific type of inspection—with more time-consuming and complex inspections having a higher enforcement unit value. As OSHA explained:

In the past, we have used the number of inspections as the primary metric to measure enforcement activity. While this metric served a useful purpose, it penalized those field managers that took on more complex inspections that required a greater amount of CSHO [compliance safety and health officer] effort. For example, a process safety management (PSM) inspection of an oil refinery, which might take months, accounted for less weight under this system than a group of concurrent safety inspections at a construction site involving several employers. Our inspection metric that gave equal weight to all inspections may have discouraged some offices from committing necessary resources to fully complete more time-consuming, complex investigations. This new system underscores the importance of the resource-intensive enforcement activity that is focused on some of the most hazardous work place issues such as ergonomics, heat, chemical exposures, workplace violence and process safety management. The weighting system accounts for the different amounts of time and resources required by different types of safety and health enforcement activities.⁸

Thus, since FY 2016, OSHA has measured agency enforcement activity not by the total number of onsite inspections, but through a weighted system of enforcement units. Therefore, to adequately and accurately measure OSHA enforcement activity under the Trump administration, the new enforcement unit (EU) measurements must be used.

Recently released data from OSHA confirm that since the beginning of the Trump administration, enforcement activity has been in a steady decline. OSHA enforcement activity dropped in FY 2017 from levels in FY 2016 (the last full year of the Obama

administration), and continues to drop in FY 2018. In FY 2016, OSHA reported a total of 42,900⁹ enforcement units as the total measure of agency enforcement activity. In FY 2017, enforcement fell by 1,071 enforcement units to 41,829 enforcement units.¹⁰ New preliminary data released by the agency shows that in FY 2018, enforcement activity continued to decline, dropping further to 41,478 enforcement units.¹¹ (See **Table 1.**)

| Table 1. Reduction in OSHA Enforcement Activity | | | |
|--|-----------|-----------|-----------|
| | FY 2016 | FY 2017 | FY 2018 |
| Total Enforcement Units (EU) | 42,900 EU | 41,829 EU | 41,478 EU |
| Sources: U.S. Department of Labor, Occupational Safety and Health Administration Enforcement Summaries for 2016 and 2017; FOIA response from OSHA. | | | |

Cutting Back on Inspections of Complicated Worker Dangers That Require More Time or Resources

A more in-depth look at the enforcement data reveals that the agency's reduction in enforcement activity is largely the result of cutbacks in the number of complicated and high-impact safety and health inspections. Compared to FY 2016, in FY 2018 (the first full year of the Trump administration) the data reveal the following (see **Table 2** for numbers reported by the agency):

- OSHA conducted one-third the number of inspections involving hazards causing musculoskeletal disorders (ergonomics), even though musculoskeletal disorders are the number one work-related illness reported by the Bureau of Labor Statistics;¹²
- OSHA reduced by almost half the number of inspections to protect workers from dangerous levels of heat, though last year was one of the hottest years on record;
- OSHA conducted one-third the number of inspections where the agency measured individual workers' levels of exposure to dangerous chemicals;
- OSHA reduced by one-quarter the number of inspections involving preventing explosions from combustible dust¹³ (e.g., such explosions occur in plastic, grain, sugar, and flour operations); and
- Most striking, the number of significant cases (high-penalty cases) has dropped by half.¹⁴

As OSHA cuts back on the more complicated and often the highest-impact inspections, the number of quick, non-weighted inspections actually rose: from 27,662 in FY 2016 to 28,322 in FY 2018. OSHA is boosting its inspection count with an increase in very quick investigations. For example, when inspectors go onto a construction site, they can inspect multiple subcontractors all at once, but count each one as a separate inspection. They can get through these sites in a few hours, and count four to five inspections.

| Table 2. Number of OSHA Inspections and Enforcement Units Assigned | | | |
|--|---------|---------|---|
| Type of Inspection | FY 2016 | FY 2018 | EU Value Change from FY 2016 to FY 2018 |
| Combustible Dust (x2 for EU value) | 491 | 396 | -190 EU |
| Ergonomics (x5 for EU value) | 69 | 23 | -230 EU |
| Heat (x4 for EU value) | 187 | 105 | -328 EU |
| Fatality/Catastrophe (x3 for EU value) | 866 | 906 | +150 EU ¹⁵ |
| Personal Sampling Cases (x2 for EU) | 1,582 | 1,285 | -600 EU |
| Significant Cases (High Penalty) (x8 for EU value) | 131 | 66 | -520 EU |
| Non Weighted (quick) (x1 for EU value) | 27,662 | 28,322 | +660 EU |
| Rapid Response Investigation (a letter sent in response to a severe injury) (x 1/9 for EU value) | 7088 | 8290 | +133 EU |

Source: FOIA Response from OSHA January 24, 2019, FOIA Number 870706

Starving OSHA of Resources: Lowest Number of Inspectors in Agency’s 48-Year History

Data released by OSHA in January¹⁶ also reveal that OSHA now has the lowest number of safety and health inspectors in its 48-year history.¹⁷ In 1982, OSHA had 1,003 compliance officers; in 2010, OSHA had 1,016 compliance officers; in 2016, it had 952; as of January 1, 2019, it had 875 on board.

The drop in the number of inspectors is not just a budget issue, because OSHA’s enforcement budget remained the same in FY 2017 and was increased in FY 2018 appropriations.¹⁸ Rather, OSHA has been slow to fill vacancies when inspectors leave the agency. For example, OSHA did not fill any inspector vacancies in calendar year 2017.¹⁹

Real Impact on Worker Safety

The low number of OSHA inspectors and the resultant decline in enforcement activity has a real impact on worker safety. In late 2018, for example, there were multiple poultry slaughter plants that reported to OSHA repeated incidents of severe worker injuries such as amputations—yet they never received an onsite inspection, despite the fact that OSHA is well aware that poultry plants report among the highest numbers of work-related amputations of any industry.²⁰

For instance, on September 15, 2018, a worker in a Peco Foods poultry plant in Pocahontas, Arkansas suffered a work-related amputation. In response, OSHA did not conduct an inspection to evaluate the safety of the plant. Three months later, the company reported that

another worker suffered an amputation in the same plant. OSHA again did not inspect this one either.

Another instance involved the Wayne Farms poultry plant in Dothan, Alabama, where the company reported that two workers suffered injuries so severe that they were hospitalized. The first injury occurred on July 31, 2018 and the second on November 27, 2018. OSHA did not inspect either of these severe injuries.²¹ Had OSHA inspected after the first one, maybe the second would have been prevented. OSHA is slowly losing its ability to enforce safe conditions because of a lack of resources.

Red Flag: Number of Workplaces Inspected by OSHA Following Work-Related Fatality or Catastrophe the Highest in a Decade

The number of inspections necessary because of workplace fatalities or catastrophes (more than three workers hospitalized) has risen under the Trump administration. The total number of workplaces inspected following a work-related death or catastrophe rose from 837 in FY 2017 to 929 in FY 2018. (See **Table 3**.) (Almost all these inspections are due to work-related fatalities; cases of catastrophes are rare.) This is the single largest increase, and the highest number of workplace fatality/catastrophe investigations under federal OSHA, in a decade. OSHA is cutting back overall enforcement activity at the same time the agency's own data suggests a large increase in work-related fatalities/catastrophes in workplaces under OSHA's jurisdiction.

| Fiscal Year | Number of Fatality/Catastrophe Investigations |
|--------------------|---|
| 2008 | 936 |
| 2009 | 836 |
| 2010 | 830 |
| 2011 | 851 |
| 2012 | 900 |
| 2013 | 826 |
| 2014 | 853 |
| 2015 | 912 |
| 2016 | 890 |
| 2017 | 837 |
| 2018 ²³ | 929 |

Source: U.S. Department of Labor, Occupational Safety and Health Administration Enforcement Summaries for 2009-2017.

No Deterrent: Ensuring the Public No Longer Hears About OSHA

Deterrence is a key objective of OSHA's enforcement activities. Because it would take 150 years for the agency to inspect every workplace under its jurisdiction just once, OSHA must be able to encourage employers to provide a safe workplace without a visit from an OSHA inspector. The reality is that for some employers, it is only the threat of an inspection that motivates them to comply with the law. Publicity about OSHA's enforcement activities can be a strong deterrent for employers who may be inclined to cut corners on safety.

In calendar year 2018, OSHA drastically reduced the number of press releases announcing enforcement actions. In fact, OSHA has all but halted the issuance of releases on enforcement actions. In 2018, OSHA issued two-thirds fewer press releases about enforcement actions than it did in calendar year 2016. OSHA issued 470 press releases about enforcement actions in 2016;²⁴ that number dropped to a mere 158 in 2018.²⁵

This reduction was a direct result of pressure from the U.S. Chamber of Commerce—and this administration's acquiescence to the demands of elite big businesses.²⁶ As a result, businesses will have little idea about what OSHA is finding or even that OSHA is still inspecting. Because OSHA cannot visit every dangerous workplace, the threat of an OSHA inspection has always been the deterrent to persuade businesses that may need a reminder to comply with the law—especially businesses that might otherwise cut corners on safety. There is no deterrent if no one even hears about the agency.

Conclusion

New preliminary data released by OSHA reveal that enforcement is steadily declining each year under the Trump administration. OSHA has drastically cut back on the more complicated and impactful inspections. OSHA also has the lowest number of inspectors on board at any time in the agency's history, and the lack of staff is contributing to the decline in enforcement activity. Further, OSHA has all but stopped issuing public notices about its enforcement activity, thereby abandoning the deterrent effect this publicity creates. Cutting back on workplace safety enforcement has detrimental consequences for workers. Preliminary data indicate that work-related deaths²⁷ are on the rise in the Trump administration.

Endnotes

- ¹ <https://www.bls.gov/iif/#News>.
- ² <https://www.osha.gov/osa40/index.html>.
- ³ Haviland AM, Burns RM, Gray WB, Ruder T, Mendeloff J. 2010. What kinds of injuries do OSHA inspections prevent? J Saf Res 14:339-345.
- ⁴ Levine DI, Toffel MW. 2012. Government regulation that actually works Harvard business review blog. http://blogs.hbr.org/cs/2012/05/government_regulation_that_act.html.
- ⁵ Levine DI, Toffel MW, Johnson MS. 2012. Randomized government safety inspections reduce worker injuries with no detectable job loss. Science 336(6083):907-911.
- ⁶ <https://aflcio.org/sites/default/files/2018-04/DOTJ2018nb.pdf>.
- ⁷ https://www.osha.gov/dep/enforcement/ews_memo_09302015.html.
- ⁸ https://www.osha.gov/dep/enforcement/ews_memo_09302015.html.
- ⁹ https://www.osha.gov/dep/2016_enforcement_summary.html.
- ¹⁰ https://www.osha.gov/dep/2017_enforcement_summary.html.
- ¹¹ FOIA Response from OSHA January 24, 2019, FOIA Number 870706
- ¹² <https://www.bls.gov/iif/>.
- ¹³ <https://www.osha.gov/dsg/combustibledust/index.html>.
- ¹⁴ As a result of an over 70% increase in OSHA penalties over the last two years (e.g willful violation went from \$70,000 to \$120,000 to \$132,598), OSHA raised the Significant Case threshold by a similar amount from \$100,000 to \$180,000. The drop in the number of significant cases is therefore not a result of the increase in the threshold, but a true drop in the number of high penalty cases.
- ¹⁵ There are some fatality inspections counted as significant cases in the OSHA data released..
- ¹⁶ Data from OSHA received on 1/3/2019 in response to **FOIA 871618**. Number includes total number of compliance officers and supervisory compliance officers, but not Area Directors.
- ¹⁷ <https://aflcio.org/sites/default/files/2018-04/DOTJ2018nb.pdf> (See page 109)
- ¹⁸ <https://www.safetyandhealthmagazine.com/articles/17552-oshas-budget-increase-official-after-president-donald-trump-signs-minibus-spending-package>.
- ¹⁹ <https://www.nbcnews.com/politics/white-house/exclusive-number-osha-workplace-safety-inspectors-declines-under-trump-n834806>
- ²⁰ <https://www.ncbi.nlm.nih.gov/pubmed/28820861>.
- ²¹ Data received by NELP from OSHA on SIR for NAICS 311615
- ²² https://www.osha.gov/dep/2017_enforcement_summary.html (Years from 2009-2017)
- ²³ https://enforcedata.dol.gov/views/data_catalogs.php (OSHA Inspections)
- ²⁴ <https://www.osha.gov/news/newsreleases/infodate-y/2016>.
- ²⁵ <https://www.osha.gov/news/newsreleases/infodate-y/2018>.
- ²⁶ <https://www.wsj.com/articles/osha-reduces-reports-of-workplace-fatalities-1503852073>.
- ²⁷ The data covers work related deaths in workplaces under Federal OSHA's jurisdiction. Federal OSHA, for example, does not cover state or local employees, mine safety, most auto/transportation incidents, and most workplaces in states with their own State OSHA plan.